

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

REDACTED

In the Matter of the Accusation)
Against:)

WILLIAM FRANKLIN GALLOWAY, III, M.D.)
101 Shell Road, # S-295)
Watsonville, CA 95076)

CASE NO. D 4023

OAH NO. N-34255

Respondent.)
_____)

DECISION

The attached Proposed Decision of the Administrative Law
Judge is hereby adopted by the Board of Medical Assurance
as its Decision in the above-entitled matter.

This Decision shall become effective on March 25, 1990.

IT IS SO ORDERED February 23, 1990.



THERESA CLAASSEN
Secretary/Treasurer

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

WILLIAM FRANKLIN GALLOWAY, III, M.D.)
101 Shell Road, # S-295)
Watsonville, CA 95076)

CASE NO. D 4023

OAH NO. N-34255

Physician's and Surgeon's)
Certificate No. C 33126)

Respondent.)

PROPOSED DECISION

This matter was heard before Stewart A. Judson,
Administrative Law Judge, State of California, Office of
Administrative Hearings on December 4 and 5, 1989 at Santa Cruz,
California.

The complainant was represented by Russell W. Lee,
Deputy Attorney General. William Franklin Galloway, III, M.D.
was present and represented himself on the morning of December 4.
He was neither present nor otherwise represented on the afternoon
of December 4 or on December 5.

FINDINGS OF FACT

I

The accusation was made by Kenneth J. Wagstaff in his
official capacity as the Executive Director of the Board of
Medical Quality Assurance of the State of California.

II

Process was duly served in the manner prescribed by law. Compliance with Government Code sections 11505 and 11509 was established.

III

a) Morphine is a dangerous drug within the meaning of Business and Professions Code section 4211, a Schedule II controlled substance within the meaning of Health and Safety Code section 11055(b)(1)(M) and a Schedule II substance within the meaning of Title 21, Code of Federal Regulations, section 1308.12(b)(1)(13).

b) Demerol (Pethidine or Meperidine) is a dangerous drug within the meaning of Business and Professions Code section 4211, a Schedule II controlled substance within the meaning of Health and Safety Code section 11055(c)(16) and a Schedule II controlled substance within the meaning of Title 21, Code of Federal Regulations, section 1308.12(c)(16).

c) Valium (diazepam) is a dangerous drug within the meaning of Business and Professions Code section 4211, a Schedule IV controlled substance within the meaning of Health and Safety Code section 11057(d)(7) and a Schedule IV controlled substance within the meaning of Title 21, Code of Federal Regulations, section 1308.14(c)(14).

d) Xylocaine is a dangerous drug within the meaning of Business and Professions Code section 4211.

IV

William Franklin Galloway, III, M.D. (respondent) was issued physician and surgeon certificate No. C-33126 by the Board on February 11, 1971. The certificate was cancelled on November 30, 1986 due to nonpayment of renewal fees but now is current with an expiration date of November 30, 1990.

V

Respondent's most recent address of record with the Board is 1830 Commercial Way, Santa Cruz, California 95062.

FIRST CAUSE FOR DISCIPLINARY ACTION

VI

Respondent prescribed the controlled substances described in Appendix A and incorporated herein to Carla O. [REDACTED] his wife, in the amounts and strengths as indicated.

VII

Expert testimony established that Morphine and Demerol are prescribed for the relief of acute pain or chronic pain in terminally ill or severe pain patients. Aside from terminal patients, a month is generally the upper limit for prescribing said drugs. Typically, the types of ailments causing such pain include renal cholic, an acute abdominal pain, ruptured discus or acute gallbladder pain.

The usual dosage for Demerol under such circumstances would be 50 to 100 mgs as much as every three to four hours if needed. An extreme case may require more. A complete history and physical with documented findings is necessary. A definitive diagnosis as to the cause of the pain is required for long term prescribing of such drugs. In certain cases, short term prescribing would be permissible pending a diagnosis but not for longer than one week.

Morphine and Demerol should not be used in conjunction with a narcotic antagonist. Dalmene is used for sleep and accumulates in the blood. Valium has a long half-life and can remain in the blood for seventy-two hours or more if given over a longer period of time. Ingesting both drugs is tantamount to double dosing the same drug.

VIII

The evidence established that the amounts of drugs prescribed by respondent for O[REDACTED] were consistent with an addiction. Respondent made no pathological diagnosis of O[REDACTED] nor were there any objective medical reasons for his prescribing conduct. Furthermore, respondent failed to perform any physical examinations of O[REDACTED] and failed to maintain any medical records, other than the actual prescriptions themselves, pertaining to O[REDACTED]. What records exist indicate that O[REDACTED] was highly tolerant to the drugs and was likely an addict. O[REDACTED] had received various workups, indicating normality, from other physicians. Respondent treated her for chronic pain syndrome without a diagnosis.

IX

The evidence established that respondent prescribed controlled substances to O[REDACTED] in repeated and clearly excessive amounts.

SECOND CAUSE FOR DISCIPLINARY ACTION

X

The evidence established that respondent's afore-described prescribing practices with respect to O[REDACTED] constituted an extreme departure from the standard of practice of medicine.

XI

The evidence established that respondent's prescribing practices with respect to O[REDACTED] demonstrated a lack of knowledge or inability in discharging his medical obligations.

THIRD CAUSE FOR DISCIPLINARY ACTION

XII

The evidence established that respondent's failure to perform the necessary initial and continuing physical examinations or tests of O [REDACTED] while she was under his drug therapy constituted an extreme departure from the standard of practice of medicine.

XIII

Respondent's failure to perform the necessary initial and continuing physical examinations or tests of O [REDACTED] while she was under his drug therapy demonstrated a lack of knowledge or inability in discharging his medical obligations.

FOURTH CAUSE FOR DISCIPLINARY ACTION

XIV

Respondent's failure to maintain medical records for O [REDACTED] while she was undergoing his drug therapy constitutes an extreme departure from the standard of practice of medicine.

XV

Respondent's failure to maintain medical records for O [REDACTED] while she was undergoing his drug therapy demonstrates a lack of knowledge or inability in discharging his medical obligations.

FIFTH CAUSE FOR DISCIPLINARY ACTION

XVI

Respondent's prescribing practices as set forth hereinabove coupled with his repeated failure to perform the necessary initial and continuing physical examinations of the patient while

she was undergoing his drug therapy and his repeated failure to maintain medical records for said patient constitute repeated acts of negligence.

SIXTH CAUSE FOR DISCIPLINARY ACTION

XVII

Respondent prescribed said dangerous drugs for O [REDACTED] without conducting a good faith prior examination and without medical indication for said drugs.

SEVENTH CAUSE FOR DISCIPLINARY ACTION

XVIII

Respondent prescribed controlled substances to a person (O [REDACTED]) that was not for a legitimate purpose.

XIX

Respondent prescribed controlled substances to a patient (O [REDACTED]) who was not under his treatment for a pathology or condition.

EIGHTH CAUSE FOR DISCIPLINARY ACTION

XX

Respondent failed to maintain a record of the prescriptions issued to O [REDACTED] for controlled substances as required by Health and Safety Code sections 11190 and 11191.

NINTH CAUSE FOR DISCIPLINARY ACTION

XXI

It was not established that, with respect to a substantial portion of the drugs and prescriptions set forth hereinabove, respondent, by himself personally or through O [REDACTED] or

another agent, caused the prescriptions to be filled and then diverted a portion of said drugs to his own personal non-patient uses and/or self-administered said drugs.

XXII

The evidence did establish that on September 30, 1986, respondent, while on duty in his position as a contract physician for the County jail, was under the influence of a narcotic or dangerous drug and was impaired to the extent as to be dangerous or injurious to himself and the public and to the extent that his ability to practice medicine at the time was impaired.

TENTH CAUSE FOR DISCIPLINARY ACTION

XXIII

a) It was not established that on July 15, 1987, respondent appeared at O'Connor Hospital in San Jose, represented himself to be a licensed physician and obtained 50cc of Xylocaine 2% from the pharmacy via a prescription.

b) It was not established that on July 20, 1987, respondent appeared at Watsonville Hospital in Watsonville, represented himself to be a physician and obtained 100cc of Xylocaine 2% from the pharmacy via a prescription.

ELEVENTH CAUSE FOR DISCIPLINARY ACTION

XXIV

On August 12, 1988, in the Municipal Court of California, County of Santa Cruz, Santa Cruz County Judicial District, respondent was convicted of violating Health and Safety Code section 11153(a) (Issuance of Illegal Prescription), a misdemeanor. Imposition of sentence was suspended, and respondent was placed on probation for a period of thirty-six months on certain terms and conditions.

DETERMINATION OF ISSUES

I

First Cause for Disciplinary Action: Cause for disciplinary action exists under Business and Professions Code section 725 in that respondent prescribed controlled substances in repeated and clearly excessive amounts.

II

Second Cause for Disciplinary Action: Cause for disciplinary action exists under Business and Professions Code section 2234(b) and (d) in that respondent has engaged in gross negligence and has demonstrated incompetence.

III

Third Cause for Disciplinary Action: Cause for disciplinary action exists under Business and Professions Code section 2234(b) and (d) in that respondent has engaged in gross negligence and has demonstrated incompetence.

IV

Fourth Cause for Disciplinary Action: Cause for disciplinary action exists under Business and Professions Code section 2234(b) and (d) in that respondent has engaged in gross negligence and has demonstrated incompetence.

V

Fifth Cause for Disciplinary Action: Cause for disciplinary action exists under Business and Professions Code section 2234(c) in that respondent has engaged in repeated acts of negligence.

VI

Sixth Cause for Disciplinary Action: Cause for disciplinary action exists under Business and Professions Code section 2242.

VII

Seventh Cause for Disciplinary Action: Respondent has violated Health and Safety Code sections 11156, 11154 and 11153. Cause for disciplinary action exists under Business and Professions Code sections 2241 and 2238.

VIII

Eighth Cause for Disciplinary Action: Respondent has violated Health and Safety Code sections 11190 and 11191. Cause for disciplinary action exists under Business and Professions Code section 2238.

IX

Ninth Cause for Disciplinary Action: Cause for disciplinary action exists under Business and Professions Code section 2239(a) in conjunction with Section 2234.

Cause for disciplinary action does not exist under Business and Professions Code section 2234(e)

X

Tenth Cause for Disciplinary Action: Cause for disciplinary action does not exist under Business and Professions Code section 2238 in conjunction with Sections 2051, 2052, 2054, 4036, 4227(a) and 4033.

XI

Eleventh Cause for Disciplinary Action: Cause for disciplinary action exists under Business and Professions Code

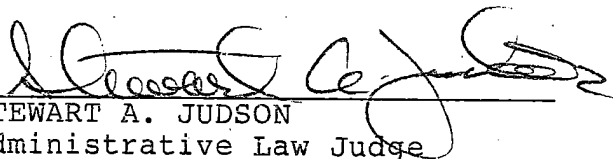
sections 2236 and 2237.

ORDER

Physician and Surgeon Certificate No. C-33126 of William Franklin Galloway, III, M.D. is revoked under Determinations I, II, III, IV, V, VI, VII, VIII, IX and XI, separately and severally.

DATED:

January 3, 1990


STEWART A. JUDSON
Administrative Law Judge

SAJ:wc

		1	FROM SANTA CRUZ PHARMACY				
			<u>Date</u>	<u>Rx. #</u>	<u>Medication</u>	<u>Strength</u>	<u>Amount</u>
3			01-23-86	147559	Demerol	100 mg/cc	260cc
			02-03-86	147809	Demerol	100 mg/cc	300cc
4			02-14-86	148110	Demerol	100 mg/cc	220cc
			02-24-86	148317	Demerol	100 mg/cc	200cc
5			04-23-86	149676	Demerol	100 mg/cc	200cc
			04-29-86	149792	Demerol	100 mg/cc	200cc
6			05-09-86	150006	Demerol	100 mg/cc	80cc
			05-13-86	150075	Demerol	100 mg/cc	200cc
7			05-21-86	150212	Demerol	100 mg/cc	200cc
			05-28-86	150337	Demerol	100 mg/cc	200cc
8			06-05-86	150535	Demerol	100 mg/cc	200cc
			06-11-86	150658	Demerol	100 mg/cc	200cc
9			06-17-86	150775	Demerol	100 mg/cc	180cc
			06-23-86	150890	Demerol	100 mg/cc	200cc
10			06-26-86	150963	Demerol	100 mg/cc	200cc
			07-03-86	151123	Demerol	100 mg/cc	200cc
11			07-09-86	151232	Demerol	100 mg/cc	200cc
			07-18-86	151358	Demerol	100 mg/cc	200cc
12			07-24-86	151501	Demerol	100 mg/cc	200cc
			07-28-86	151607	Demerol	100 mg/cc	200cc
13			08-11-86	151729	Demerol	100 mg/cc	200cc
			08-11-86	151899	Demerol	100 mg/cc	200cc
14			08-15-86	151982	Morphine Sulfate	15/cc	200cc
			08-21-86	152099	Demerol	100/cc	200cc
15			08-28-86	152219	Demerol	100/cc	200cc
			09-03-86	152329	Demerol	100/cc	200cc
16			09-09-86	152430	Demerol	100/cc	200cc
			09-16-86	152546	Demerol	100/cc	200cc
17			09-22-86	152685	Morphine Sulfate	15/cc	60cc
			09-24-86	152755	Demerol	100/cc	200cc
18			09-29-86	152853	Demerol	100/cc	200cc

19 ~~FROM SANTA CRUZ PHARMACY~~

20 ~~01-23-86 147559 Demerol 100 mg/cc 260cc~~

21 ~~02-03-86 147809 Demerol 100 mg/cc 300cc~~

22 ~~02-14-86 148110 Demerol 100 mg/cc 220cc~~

23

24 1 FROM LONGS DRUGS

25 01-20-86 535294 Valium 10mg 30

26 01-08-86 537490 Valium 10mg 20

27 ~~02-03-86 147559 Demerol 100 mg/cc 260cc~~

1 PRESCRIPTIONS FOR CARLA O [REDACTED] ISSUED BY RESPONDENT

2 1 FROM COMMUNITY HOSPITAL PHARMACY

3	<u>Date</u>	<u>Rx #</u>	<u>Medication</u>	<u>Strength</u>	<u>Amount</u>
4	09-06-85	547183	Demerol	100 mg/cc	40cc
5	09-23-85	549743	Demerol	100 mg/cc	40cc
6		1	<u>FROM SANTA CRUZ PHARMACY</u>		
7	05-09-85	141531	Morphine	15 mg/cc	20cc
8	05-28-85	141928	Morphine	15 mg/cc	40cc
9	06-17-85	142464	Morphine	15 mg/cc	40cc
10	07-09-85	143008	Morphine	15 mg/cc	20cc
11	08-01-85	143522	Demerol	100 mg/cc	40cc
12	08-09-85	143757	Demerol	100 mg/cc	40cc
13	08-26-85	144122	Demerol	100 mg/cc	40cc
14	09-16-85	144548	Demerol	100 mg/cc	40cc
15	09-27-85	144930	Demerol	100 mg/cc	40cc
16	10-03-85	145075	Demerol	100 mg/cc	40cc
17	10-04-85	145130	Demerol	100 mg/cc	40cc
18	10-10-85	145131	Demerol	100 mg/cc	40cc
19	10-14-85	145207	Demerol	100 mg/cc	60cc
20	10-17-85	145289	Demerol	100 mg/cc	80cc
21	10-21-85	145341	Demerol	100 mg/cc	60cc
22	10-24-85	145411	Demerol	100 mg/cc	80cc
23	10-24-85	145442	Demerol	100 mg/cc	100cc
24	10-28-85	145525	Demerol	100 mg/cc	60cc
25	10-31-85	145599	Demerol	100 mg/cc	80cc
26	11-04-85	145695	Demerol	100 mg/cc	80cc
27	11-07-85	145784	Demerol	100 mg/cc	240cc
28	11-19-85	146066	Demerol	100 mg/cc	240cc
29	12-03-85	146379	Demerol	100 mg/cc	400cc
30	12-19-85	146833	Demerol	100 mg/cc	400cc
31	01-03-86	147076	Demerol	100 mg/cc	400cc
32	01-16-86	147388	Demerol	100 mg/cc	400cc
33	03-03-86	148473	Demerol	100 mg/cc	200cc
34	03-11-86	148680	Demerol	100 mg/cc	200cc
35	03-17-86	148792	Demerol	100 mg/cc	200cc
36	03-24-86	148992	Demerol	100 mg/cc	200cc
37	04-03-86	149211	Demerol	100 mg/cc	200cc
38	04-09-86	149357	Demerol	100 mg/cc	200cc
39	04-16-86	149511	Demerol	100 mg/cc	200cc

	<u>Date</u>	<u>Rx. #</u>	<u>Medication</u>	<u>Strength</u>	<u>Amount</u>
1					
2	03-02-86	545082	Valium	10mg	15
3	03-02-86	545082	Valium	10mg	15
4	03-02-86	545082	Valium	10mg	15
5	04-30-86	553921	Valium	10mg	50
6	04-30-86	553921	Valium	10mg	50
7	05-27-86	557982	Valium	10mg	70
8	05-27-86	557982	Valium	10mg	70
9	05-27-86	557982	Valium	10mg	70
10	07-19-86	566565	Valium	10mg	100
11	07-31-86	568586	Valium	10mg	100
12	08-15-86	571018	Valium	10mg	30

COPY

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2 of the State of California
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8 Telephone: (415) 557-2025

9 Attorneys for Complainant
10

11 BEFORE THE
12 DIVISION OF MEDICAL QUALITY
13 BOARD OF MEDICAL QUALITY ASSURANCE
14 DEPARTMENT OF CONSUMER AFFAIRS
15 STATE OF CALIFORNIA

16 In the Matter of the Accusation
17 Against:

NO. D-4023

18 WILLIAM FRANKLIN GALLOWAY, III, M.D.
19 101 Shell Road, #S-295
20 Watsonville, California 95076

ACCUSATION

21 Physician's and Surgeon's
22 Certificate No. C 33126

23 Respondent.

24 Complainant Kenneth J. Wagstaff, as cause for
25 disciplinary action against the above named respondent, charges
26 and alleges as follows:

27 1. He is the Executive Director of the Board of Medical
Quality Assurance of the State of California (hereinafter
referred to as the "board") and makes and files this accusation
solely in his official capacity.

2. On or about February 11, 1971, the board issued to
William Franklin Galloway, M.D., (hereinafter referred to as

1 "respondent") physician's and surgeon's certificate number C
2 33126. Said certificate is in a current status at the present
3 time.

4 3. Section 2001 of the Business and Professions Code
5 (hereinafter referred to as the "code") provides for the
6 existence of the board.

7 4. Section 2003 of the code provides for the existence
8 of the Division of Medical Quality (hereinafter referred to as
9 the "division") within the board.

10 5. Section 2004 of the code provides, inter alia, that
11 the division is responsible for the administration and hearing of
12 disciplinary actions involving enforcement of the Medical
13 Practice Act (section 2000 et seq. of the code) and the carrying
14 out of disciplinary action appropriate to findings made by a
15 medical quality review committee, the division, or an
16 administrative law judge with respect to the quality of medical
17 practice carried out by physician & surgeon certificate holders.

18 6. Section 2220, 2234 and 2227 of the code together
19 provide that the division shall take disciplinary action against
20 the holder of a physician's and surgeon's certificate who is
21 guilty of unprofessional conduct.

22 7. Section 725 of the code provides, in pertinent part,
23 that repeated acts of clearly excessive prescribing or
24 administering of drugs or treatment as determined by the standard
25 of the community of licensees is unprofessional conduct for a
26 physician and surgeon.

27

/

1 8. Drugs:

2 A) Morphine is a dangerous drug as defined by
3 section 4211 of the Business and Professions Code, and is a
4 Schedule II controlled substance as defined in sections
5 11055(b)(1)(M) of the Health and Safety Code and is a Schedule II
6 controlled substance as defined in section 1308.12(b)(1)(13) of
7 Title 21 of the Code of Federal Regulations.

8 B) Demerol (Pethidine or Meperidine) is a
9 dangerous drug as defined by section 4211 of the Business and
10 Professions Code, and is a Schedule II controlled substance as
11 defined in section 11055(c)(16) of the Health and Safety Code and
12 is a Schedule II controlled substance as defined in section
13 1308.12(c)(16) of Title 21 of the Code of Federal Regulations.

14 C) Valium (diazepam) is a dangerous drug as
15 defined by section 4211 of the Business and Professions Code, and
16 is a Schedule IV controlled substance as defined in section
17 11057(d)(7) of the Health and Safety Code and is a Schedule IV
18 controlled substance as defined in section 1308.14(c)(14) of
19 Title 21 of the Code of Federal Regulations.

20 FIRST CAUSES FOR DISCIPLINARY ACTION

21 9. Respondent is subject to discipline pursuant to the
22 provisions of section 725 of the code for unprofessional conduct
23 in that on or about the hereinafter set out dates respondent
24 prescribed the hereinafter set out controlled substances to his
25 wife, one Carla O. [REDACTED], in repeated and clearly excessive
26 amounts as more particularly alleged hereinafter:

PRESCRIPTIONS FOR CARLA O [REDACTED] ISSUED BY RESPONDENT

1 FROM COMMUNITY HOSPITAL PHARMACY

Date	Rx #	Medication	Strength	Amount
09-06-85	547183	Demerol	100 mg/cc	40cc
09-23-85	549743	Demerol	100 mg/cc	40cc

1 FROM SANTA CRUZ PHARMACY

05-09-85	141531	Morphine	15 mg/cc	20cc
05-28-85	141928	Morphine	15 mg/cc	40cc
06-17-85	142464	Morphine	15 mg/cc	40cc
07-09-85	143008	Morphine	15 mg/cc	20cc
08-01-85	143522	Demerol	100 mg/cc	40cc
08-09-85	143757	Demerol	100 mg/cc	40cc
08-26-85	144122	Demerol	100 mg/cc	40cc
09-16-85	144548	Demerol	100 mg/cc	40cc
09-27-85	144930	Demerol	100 mg/cc	40cc
10-03-85	145075	Demerol	100 mg/cc	40cc
10-04-85	145130	Demerol	100 mg/cc	40cc
10-10-85	145131	Demerol	100 mg/cc	40cc
10-14-85	145207	Demerol	100 mg/cc	60cc
10-17-85	145289	Demerol	100 mg/cc	80cc
10-21-85	145341	Demerol	100 mg/cc	60cc
10-24-85	145411	Demerol	100 mg/cc	80cc
10-24-85	145442	Demerol	100 mg/cc	100cc
10-28-85	145525	Demerol	100 mg/cc	60cc
10-31-85	145599	Demerol	100 mg/cc	80cc
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11-19-85	146066	Demerol	100 mg/cc	240cc
12-03-85	146379	Demerol	100 mg/cc	400cc
12-19-85	146833	Demerol	100 mg/cc	400cc
01-03-86	147076	Demerol	100 mg/cc	400cc
01-16-86	147388	Demerol	100 mg/cc	400cc
03-03-86	148473	Demerol	100 mg/cc	200cc
03-11-86	148680	Demerol	100 mg/cc	200cc
03-17-86	148792	Demerol	100 mg/cc	200cc
03-24-86	148992	Demerol	100 mg/cc	200cc
04-03-86	149211	Demerol	100 mg/cc	200cc
04-09-86	149357	Demerol	100 mg/cc	200cc
04-16-86	149511	Demerol	100 mg/cc	200cc

1 FROM CARLA O [REDACTED]

09-17-85	3669L46	Demerol	100 mg/cc	40cc
09-24-85	9497163	Demerol	100 mg/cc	20cc
09-26-85	12533H24	Demerol	100 mg/cc	40cc
09-20-85	3669L06	Demerol	100 mg/cc	60cc

1 Where prescription was retrieved from.

			1 <u>FROM SANTA CRUZ PHARMACY</u>		
	<u>Date</u>	<u>Rx. #</u>	<u>Medication</u>	<u>Strength</u>	<u>Amount</u>
3	01-23-86	147559	Demerol	100 mg/cc	260cc
	02-03-86	147809	Demerol	100 mg/cc	300cc
4	02-14-86	148110	Demerol	100 mg/cc	220cc
	02-24-86	148317	Demerol	100 mg/cc	200cc
5	04-23-86	149676	Demerol	100 mg/cc	200cc
	04-29-86	149792	Demerol	100 mg/cc	200cc
6	05-09-86	150006	Demerol	100 mg/cc	80cc
	05-13-86	150075	Demerol	100 mg/cc	200cc
7	05-21-86	150212	Demerol	100 mg/cc	200cc
	05-28-86	150337	Demerol	100 mg/cc	200cc
8	06-05-86	150535	Demerol	100 mg/cc	200cc
	06-11-86	150658	Demerol	100 mg/cc	200cc
9	06-17-86	150775	Demerol	100 mg/cc	180cc
	06-23-86	150890	Demerol	100 mg/cc	200cc
10	06-26-86	150963	Demerol	100 mg/cc	200cc
	07-03-86	151123	Demerol	100 mg/cc	200cc
11	07-09-86	151232	Demerol	100 mg/cc	200cc
	07-18-86	151358	Demerol	100 mg/cc	200cc
12	07-24-86	151501	Demerol	100 mg/cc	200cc
	07-28-86	151607	Demerol	100 mg/cc	200cc
13	08-11-86	151729	Demerol	100 mg/cc	200cc
	08-11-86	151899	Demerol	100 mg/cc	200cc
14	08-15-86	151982	Morphine Sulfate	15/cc	200cc
	08-21-86	152099	Demerol	100/cc	200cc
15	08-28-86	152219	Demerol	100/cc	200cc
	09-03-86	152329	Demerol	100/cc	200cc
16	09-09-86	152430	Demerol	100/cc	200cc
	09-16-86	152546	Demerol	100/cc	200cc
17	09-22-86	152685	Morphine Sulfate	15/cc	60cc
	09-24-86	152755	Demerol	100/cc	200cc
18	09-29-86	152853	Demerol	100/cc	200cc
19			1 <u>FROM RESPONDENT</u>		
20	09-23-86	218353	Demerol	50 mg/ml	30cc
	07-16-86	86031-			
21		116-38	Demerol	100 mg/cc	200cc
	(no date)	86031-			
22		116-40	Demerol	100 mg/cc	40cc
23			1 <u>FROM LONGS DRUGS</u>		
24	01-20-86	535294	Valium	10mg	30
25	02-21-86	535294	Valium	10mg	30
26	01-08-86	537490	Valium	10mg	20
	02-02-86	537490	Valium	10mg	20
27	02-03-86	537490	Valium	10mg	20

	<u>Date</u>	<u>Rx. #</u>	<u>Medication</u>	<u>Strength</u>	<u>Amount</u>
1					
2	03-02-86	545082	Valium	10mg	15
3	03-18-86	545082	Valium	10mg	15
4	04-10-86	545082	Valium	10mg	15
5	04-10-86	545082	Valium	10mg	15
6	04-30-86	553921	Valium	10mg	50
7	05-12-86	553921	Valium	10mg	50
8	05-27-86	557982	Valium	10mg	70
9	06-07-86	559990	Valium	10mg	100
10	06-22-86	562166	Valium	10mg	100
11	07-08-86	562166	Valium	10mg	100
12	07-19-86	566565	Valium	10mg	100
13	07-31-86	568586	Valium	10mg	100
14	08-15-86	571018	Valium	10mg	30

10. Section 2234, subdivision (b) of the code provides, in pertinent part, that unprofessional conduct includes, but is not limited to, gross negligence.

11. Section 2234, subdivision (d) of the code provides, in pertinent part, that unprofessional conduct includes, but is not limited to, incompetence.

SECOND CAUSES FOR DISCIPLINARY ACTION

12. Respondent is further subject to disciplinary action in that respondent has been guilty of gross negligence and/or incompetence within the meaning of section 2234, subdivisions (b) and (d), of the code in the prescribing of the hereinafter set out drugs in the hereinafter set out amounts and durations to his wife, Carla O. [REDACTED], on or about the hereinafter set out dates:

1 The list of prescription data thereto
2 appertaining set forth hereinabove at
3 paragraph 9 is incorporated herein by
4 reference as though fully set forth at
5 length.

6 THIRD CAUSES FOR DISCIPLINARY ACTION

7 13. Respondent is further subject to disciplinary
8 action in that respondent has been guilty of gross negligence
9 and/or incompetence within the meaning of section 2234,
10 subdivisions (b) and (d), of the code, in that while prescribing
11 the hereinabove set out drugs in the hereinabove set out manner
12 to his wife, Carla O. [REDACTED], as described hereinabove at paragraph
13 9, respondent failed to obtain and/or perform the necessary or
14 adequate initial and/or continuing physical examinations or tests
15 of said Carla O. [REDACTED] while under said drug therapy.

16 FOURTH CAUSES FOR DISCIPLINARY ACTION

17 14. Respondent is further subject to disciplinary
18 action in that respondent has been guilty of gross negligence
19 and/or incompetence within the meaning of section 2234,
20 subdivisions (b) and (d), of the code, in that while prescribing
21 the hereinabove set out drugs in the hereinabove set out manner
22 to said Carla O. [REDACTED] as described hereinabove at paragraph 9,
23 respondent failed to maintain adequate or any medical records for
24 said Carla O. [REDACTED].

25 15. Section 2234, subdivision (c) of the code provides,
26 in pertinent part, that unprofessional conduct includes, but is
27 not limited to, repeated negligent acts.

1 FIFTH CAUSES FOR DISCIPLINARY ACTION

2 16. Respondent is further subject to disciplinary
3 ~~action in that respondent has been guilty of repeated negligent~~
4 acts within the meaning of section 2234, subdivision (c), of the
5 code in that respondent repeatedly prescribed the hereinabove set
6 out drugs in the hereinabove set out manner to said Carla O. [REDACTED]
7 as described hereinabove at paragraph 9 and/or in that respondent
8 repeatedly failed to obtain and/or perform necessary initial
9 and/or continuing physical examinations of said Carla O. [REDACTED]
10 while under said drug therapy and/or in that respondent
11 repeatedly failed to maintain adequate or any medical records for
12 said Carla O. [REDACTED].

13 17. Section 2242 of the code provides, in pertinent
14 part, that the prescribing, dispensing or furnishing of dangerous
15 drugs as defined in section 4211 of the code without a good faith
16 prior examination and medical indication therefor, constitutes
17 unprofessional conduct.

18 SIXTH CAUSES FOR DISCIPLINARY ACTION

19 18. Respondent is further subject to discipline
20 pursuant to the provisions of section 2242 of the code, in that
21 respondent has prescribed the following dangerous drugs as
22 defined in section 4211 of the code, for said Carla O. [REDACTED]
23 without conducting a good faith prior examination of such
24 persons, and without medical indication therefor, as more
25 particularly alleged hereinafter:

26 The list of prescription data thereto
27 appertaining set forth hereinabove at

paragraph 9 is incorporated herein by
reference as though fully set forth at
length.

19. Section 2241 of the Code provides, in pertinent part, that unless otherwise provided by this section, the prescribing, selling, furnishing, giving away, or administering or offering to prescribe, sell, furnish, give away, or administer any of the drugs or compounds mentioned in Section 2239 to an addict or habitue constitutes unprofessional conduct.

20. Section 2238 of the code provides, in pertinent part, that the violation of any statute of this state regulating controlled substances, constitutes unprofessional conduct.

21. Section 11156 of the Health and Safety Code provides that no person shall prescribe for or administer, or dispense a controlled substance to an addict or habitual user, or to any person representing himself as such, except as permitted by this division.

22. Section 11153(a) of the Health & Safety Code now provides and former Section 11153 provided in pertinent part, that a prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice.

23. Section 11154(a) of the Health and Safety Code provides and former section 11154 provided, in pertinent part, that except in the practice of his profession no person shall prescribe, administer, dispense or furnish a controlled substance

1 to or for any person who is not under his treatment for a
2 pathology or condition other than addiction to a controlled
3 substance.

4 24. Section 11007, subdivision (b), and section 11150.5
5 of the Health and Safety Code provide, in pertinent part, that a
6 controlled substance as the term is used in sections 11153,
7 11153(a), 11154, and 11154(a) of the Health and Safety Code means
8 any drug, substance or immediate precursor which is included in
9 one of the five schedules contained in the Federal Controlled
10 Substances Act (Title II, P.L. 91-513).

11 25. Morphine, Demerol, and Valium are controlled
12 substances within the meaning of Health and Safety Code sections
13 11153, 11153(a), 11154, 11154(a), 11007 and 11150.5 as set forth
14 in paragraph 8 hereinabove.

15 SEVENTH CAUSES FOR DISCIPLINARY ACTION

16 26. Respondent is further subject to discipline
17 pursuant to the provisions of sections 2241 and 2238 of the code
18 in that respondent has violated state statutes regulating
19 controlled substances by prescribing controlled substances to a
20 person not under his treatment for a pathology or condition other
21 than addiction to a controlled substance in the instances alleged
22 in paragraph 9, hereinabove, in violation of sections 11156,
23 11154 and/or 11154(a) of the Health and Safety Code and/or has
24 issued prescriptions for controlled substances not for a
25 legitimate medical purpose in the instances alleged in paragraph
26 9, hereinabove, in violation of section 11153 or 11153(a) of the
27 Health and Safety Code.

1 27. Sections 11190 and 11191 of the Health and Safety
2 Code provides as follows:

3 11190. Every practitioner, other than a
4 pharmacist, who issues a prescription, or
5 dispenses or administers a controlled
6 substance classified in Schedule II shall
7 make a record, as to the transaction, shows
8 all of the following:
9 (a) The name and address of the patient.
10 (b) The date.
11 (c) The character and quantity of controlled
12 substances involved.
13 The prescriber's record shall show the
14 pathology and purpose for which the
15 prescription is issued, or the controlled
16 substance administered, prescribed, or
17 dispensed.

18 11191. The record shall be preserved for
19 three years.
20 Every person who violates any provision of
21 this section is guilty of a misdemeanor.

22 EIGHTH CAUSES FOR DISCIPLINARY ACTION

23 28. Respondent is further subject to discipline
24 pursuant to the provisions of section 2238 of the code in that
25 respondent has violated sections 11190, and/or 11191 of the
26 Health and Safety Code. The circumstances are as follows:

27 With respect to virtually every
28 prescription listed in paragraph 9
29 hereinabove, respondent failed to keep a
30 record in Carla Olander's medical records or
31 elsewhere of the information required by
32 sections 11190 and 11191 of the Health and
33 Safety Code.

34 29. Section 2239(a) of the code provides in pertinent
35 part, that the use or prescribing for or administering to himself
36
37

1 or herself, of any controlled substance; or the use of any of the
2 dangerous drugs specified in Section 4211, or of alcoholic
3 beverages, to the extent, or in such a manner as to be dangerous
4 or injurious to the licensee, or to any other person or to the
5 public, or to the extent that such use impairs the ability of the
6 licensee to practice medicine safely constitutes unprofessional
7 conduct.

8 30. Section 2234(e), provides that the commission of
9 any act involving dishonesty or corruption which is substantially
10 related to the qualifications, functions, or duties of a
11 physician and surgeon is unprofessional conduct.

12 31. Health and Safety Code section 11170 provides that
13 no person shall prescribe, administer, or furnish a controlled
14 substance for himself.

15 32. Health and Safety Code section 11171 provides that
16 no person shall prescribe, administer, or furnish a controlled
17 substance except under the conditions and in the manner provided
18 by this division.

19 33. Health and Safety Code section 11173 provides, in
20 pertinent part, as follows:

21 11173. (a) No person shall obtain or
22 attempt to obtain controlled substances, or
23 procure or attempt to procure the
24 administration of or prescription for
controlled substances, (1) by fraud, deceit,
misrepresentation, or subterfuge; or (2) by
the concealment of a material fact.

25 (b) No person shall make a false
26 statement in any prescription, order, report,
or record, required by this division.

27

/

NINTH CAUSES FOR DISCIPLINARY ACTION

34. Respondent is further subject to discipline pursuant to the provisions of sections 2234(e) and /or 2239(a) of the code and/or pursuant to the provisions of section 2238 of the code in conjunction with Health and Safety Code sections 11154(a), 11170, 11171, 11173(a) and/or 11173(b). The circumstances are as follows:

A. With respect to a substantial portion of the drugs and prescriptions set forth at paragraph 9 hereinabove, respondent by himself personally or through his wife or another agent had the prescriptions filled and then diverted a portion of said drugs to his own personal non-patient related uses and/or self administered said drugs.

B. As a result of said diversions and self administrations of said drugs referenced in subparagraph A hereinabove, or as a result of self administrations of controlled substances from other sources, respondent was, on or about September 30, 1986 and October 1, 1986, impaired in such a manner as to be dangerous or injurious to himself, his wife, or the public, or to the extent that his ability to practice medicine safely was impaired.

35. Section 2051 of the Code provides that the physician's and surgeon's certificate authorizes the holder to

1 use drugs or devices in or upon human beings and to sever or
2 penetrate the tissues of human beings and to use any and all other
3 methods in the treatment of diseases, injuries, deformities, and
4 other physical and mental conditions.

5 36. Section 2052 of the Code provides that any person
6 who uses in any sign, business card, or letterhead, or, in an
7 advertisement, the words "doctor" or "physician," the letters or
8 prefix "Dr.," the initials "M.D.," or any other terms or letters
9 indicating or implying that he or she is a physician and surgeon,
10 physician, surgeon, or practitioner under the terms of this or
11 any other law, or that he or she is entitled to practice
12 hereunder, or who represents or holds himself or herself out as a
13 physician and surgeon, physician, surgeon, or practitioner under
14 the terms of this or any other law, without having at the time of
15 so doing a valid, unrevoked, and unsuspended certificate as a
16 physician and surgeon under this chapter, is guilty of a
17 misdemeanor.

18 38. Section 4036 of the Code provides, in pertinent
19 part, that no person other than a physician, dentist, podiatrist,
20 or veterinarian, shall prescribe or write a prescription.

21 39. Section 4227(a) of the Code provides that a
22 pharmacy may, without a prescription, furnish a dangerous drug to
23 a physician, dentist, podiatrist, or veterinarian, or to a
24 laboratory under sales and purchase records that correctly give
25 the date, the names and addresses of the supplier and the buyer,
26 the drug and its quantity.

27 40. Section 4033 of the Code provides as follows:

1 4033. Prescribers

2 "Physicians," "dentists,"
3 "pharmacists," "podiatrists,"
4 "veterinarians," "veterinary
5 surgeons," "registered nurses," and
6 "physician's assistants" are

7 persons authorized by a currently
8 valid and unrevoked license to
9 practice their respective
10 professions in this state.

11 "Physicians" means and includes any
12 person holding a valid and
13 unrevoked physician's and surgeon's
14 certificate or certificate to
15 practice medicine and surgery,
16 issued by the Board of Medical
17 Quality Assurance or the Board of
18 Osteopathic Examiners of this
19 state, and includes an unlicensed
20 person lawfully practicing medicine
21 pursuant to Section 2147.5, when
22 acting within the scope of that
23 section.

24 41. Section 11150 of the Health and Safety Code
25 provides, in pertinent part, that no person other than a
26 physician, dentist, podiatrist, or veterinarian, . . . shall
27 write or issue a prescription.

42. Xylocaine is a dangerous drug as defined by Section
4211 of the code.

TENTH CAUSES FOR DISCIPLINARY ACTION

43. Respondent is further subject to discipline
pursuant to the provisions of section 2238 of the code in
conjunction with sections 2051, 2052, 2054, 4036, 4227(a), 4033,
and/or section 11150 of the Health and Safety Code in that he has
violated state statutes regulating dangerous drugs. The
circumstances are as follows:

A. On or about July 15, 1987, respondent
appeared at O'Connor Hospital in San Jose,

1 and represented himself to be a licensed
2 physician, and obtained 50cc of Xylocaine 2%
3 from the pharmacy via a prescription.

4
5 B. On or about July 20, 1987, respondent
6 appeared at Watsonville Hospital,
7 Watsonville, and represented himself to be a
8 licensed physician, and obtained 100 cc of
9 Xylocaine 2% from the pharmacy via a
10 prescription.

11 C. In truth and in fact, respondent's
12 physicians and surgeon's license had expired
13 on or about November 30, 1986, and had not
14 been renewed as of July 20, 1987, and he was
15 not authorized to obtain or prescribe
16 dangerous drugs or controlled substances.

17 44. Section 2236 of the Code provides as follows:

18 2236. (a) The conviction of any offense
19 substantially related to the qualifications,
20 functions, or duties of a physician and
21 surgeon constitutes unprofessional conduct
22 within the meaning of this chapter. The
evidence only of the fact that the conviction
occurred.

23 (b) The division may inquire into the
24 circumstances surrounding the commission of
25 the crime in order to fix the degree of
26 discipline or to determine if such conviction
27 is of an offense substantially related to the
qualifications, functions, or duties of a
physician and surgeon. A plea or verdict of
guilty or a conviction following a plea of
nolo contendere made to a charge
substantially related to the qualifications,
functions, or duties of a physician and

1 surgeon is deemed to be a conviction within
2 the meaning of this section.

3 (c) Discipline may be ordered in
4 accordance with section 2227, or the Division
5 of Licensing may order the denial of the
6 license when the time for appeal has elapsed,
7 or the judgment of conviction has been
8 affirmed on appeal, or when an order granting
9 probation is made suspending the imposition
10 of sentence, irrespective of a subsequent
11 order under the provisions of Section 1203.4
12 of the Penal Code allowing such person to
13 withdraw his or her plea of guilty and to
14 enter a plea of not guilty, or setting aside
15 the verdict of guilty, or dismissing the
16 accusation, complaint, information, or
17 indictment.

18 45. Section 2237 of the Code provides as follows:

19 2237. (a) The conviction of a charge of
20 violating any federal statutes or regulations
21 or any statute or regulation of this state,
22 regulating dangerous drugs, or controlled
23 substances, constitutes unprofessional
24 conduct. The record of the conviction is
25 conclusive evidence of such unprofessional
26 conduct. A plea or verdict of guilty or a
27 conviction following a plea of nolo
contendere is deemed to be a conviction
within the meaning of this section.

(b) Discipline may be ordered in
accordance with Section 2227 or the Division
of Licensing may order the denial of the
license when the time for appeal has elapsed,
or the judgment of conviction has been
affirmed on appeal, or when an order granting
probation is made suspending the imposition
of sentence, irrespective of a subsequent
order under the provisions of Section 1203.4
of the Penal Code allowing such person to
withdraw his or her plea of guilty and to
enter a plea of not guilty, or setting aside
the verdict of guilty, or dismissing the
accusation, complaint, information, or
indictment.

ELEVENTH CAUSES FOR DISCIPLINE

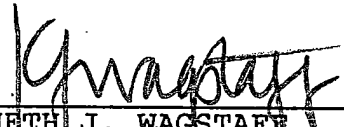
46. Respondent is further subject to discipline pursuant to sections 2236(a), (b), and (c), and 2237(a) and (b), of the code, in that respondent was convicted of a crime involving state statutes regulating dangerous drugs or controlled substance and substantially related to the qualifications, functions and duties of his profession in that on or about July 29, 1988, in the case entitled People of the State of California v William Franklin Galloway, M.D., Case No. 96-02663, Municipal Court of Santa Cruz Judicial District, County of Santa Cruz, State of California, respondent pled nolo contendere to one count of violating Health and Safety Code Section 11153(a) (prescribing without medical indication) and was placed on probation for 36 months on terms and conditions.

WHEREFORE, complainant prays that the division hold a hearing on the matters alleged herein and, following said hearing, issue an order:

1. Suspending or revoking respondent's physician's and surgeon's certificate number C33126 heretofore issued to respondents; and

2. Taking such other and further action as the division deems appropriate.

DATED: July 11, 1989


KENNETH J. WAGSTAFF
Executive Director
Board of Medical Quality
Assurance

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Complainant